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Human Rights Committee

Concluding observations on the third periodic report of Kenya

Addendum

Information received from Kenya on follow-up to the concluding observations*

[Date received: 9 February 2015]

Introduction

1. The Government of Kenya is pleased to submit to the Human Rights Committee information on the measures taken in response to the Committee's recommendations contained in paragraphs 6, 13 and 16 of its concluding observations (CCPR/C/KEN/CO/3). The State party reports that a number of workshops have been held to disseminate the concluding observations to stakeholders who were drawn from government offices, civil society organizations and independent national human rights institutions. The report reflects contributions from the stakeholders who gave important feedback on the state of implementation of the issues raised by the Committee.

RECOMMENDATIONS, PARA. 6: The State party should strengthen its efforts to increase the participation of women in the public and private sectors, and where necessary, through appropriate temporary special measures to give effect to the provisions of the Covenant. In this regard, the Committee recommends that the State party should ensure that the two-thirds rule enunciated by the new Constitution is implemented as a matter of priority. Furthermore, the Committee urges the State party to include in its next periodic report, disaggregated statistical data on the representation of women in the private sector.

2. The Government of Kenya is committed to promoting the equitable participation of women in politics and government. Although women comprise over 50 per cent of the country's population, women continue to be under-represented as political leaders, elected officials and in appointments and employment, both at lower and higher levels. This state

* The present document is being issued without formal editing.

of affairs is mainly attributable to cultural and societal dynamics. To ameliorate this position, Article 27(3) of the Constitution stipulates that "women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres. Article 27(8) specifically provides that the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective and appointive bodies shall be of the same gender. Several legislative, policy and administrative measures have been taken to guarantee an environment that encourages and enables women to contest elections and seek other appointive positions successfully. These measures are explained in the following paragraphs.

3. The Independent Electoral and Boundaries Commission Act, No. 9 of 2011 makes provision for the appointment and effective operation of the Independent Electoral and Boundaries Commission (IEBC). The Commission's main mandate is to supervise elections and ensure that they are free fair and credible election.

4. The Elections Act No. 24 of 2011 contains provisions aimed at enhancing the space for increased participation of women in politics. The Electoral Code of Conduct developed in 2011 is key to establishing a level playing ground for candidates in competitive elections. It sets out provisions that promote an atmosphere and culture of tolerance, courtesy, and respect – all of which are beneficial to women's engagement in politics.

5. The Political Parties Act No. 11 of 2011 provides clear opportunities to enhance the participation of women in politics and the electoral process and bridge the gender gap. The Code of Conduct under the Act directs parties to respect and promote gender equity and equality, human rights, and fundamental freedoms, as well as practice tolerance and inclusive political activities.

6. The National Gender Policy framework was developed with an overall goal of mainstreaming gender concerns in the development process in Kenya in order to improve the social, legal, economic, and cultural conditions for women, men, girls, and boys. The objectives of the Policy include promoting equity and equality of women and men throughout their life cycle and ensuring that interventions do not promote inequitable gender roles and relations.

7. A Handbook on Elective Positions was published in 2012 to promote public understanding of the various provisions under the Constitution of Kenya, 2010.

8. The courts too, have pronounced themselves on the rights of women and other marginalized persons to participate effectively in political processes. In Petition No. 147 of 2013, National Gender and Equality Commission v. Independent Electoral and Boundaries Commission, the main argument was that, the failure by Independent Electoral and Boundaries Commission to supervise the process of developing the party lists had resulted into poor representation of marginalized groups, persons with disabilities and the youth. The Court made orders to the respondents to develop, in conjunction with Constitutional Human Rights Commissions and political parties, programs, policies and measures geared towards increasing the participation of women, youth, persons with disabilities, and other vulnerable persons to effectively participate in political processes.

9. According to Article 81(b) of the Constitution of Kenya, 2010, "not more than two-thirds of the members of elective public bodies shall be of the same gender." The rule is meant to increase women's participation in politics, and based on the rule at least 117 Members of Parliament would have to be female (or male if women made up the majority in Parliament). It is not clear under the Constitution how this rule would be implemented. The achievement of the gender equality rule in the first general elections under the Constitution was not realized. Women won a mere 13.4 per cent, which did not attain the "third threshold" as outlined in the table under paragraph 12 below. No woman candidate

was elected to governor and senator positions, meaning none of Kenya's 47 local governments is led by a woman.

10. To address this Constitutional anomaly, the Attorney General, just before the March 2013 general elections in Kenya, sought an advisory opinion from the Supreme Court on how the Constitutional threshold could be achieved. The Supreme Court held that the achievement of the provision would be progressive and decreed that a mechanism towards this be put in place by the 27th August 2015.

11. The Attorney General has set up a Working Group to work out the modalities of achieving this Constitutional imperative. The members of the Working Group include: the National Gender and Equality Commission (NGEC) Convener; the Ministry of Devolution and Planning, Office of the Attorney General and Department of Justice, Office of the Registrar of Political parties (ORPP); the Independent Electoral and Boundaries Commission (IEBC); the Commission on the Implementation of the Constitution (CIC); the Commission on Administrative Justice (CAJ), Parliament, i.e. the Kenya National Assembly (KNA); the Senate (committees on the Implementation of the Constitution, and Justice and Legal Affairs, respectively); Kenya Women's Parliamentary Association (KEWOPA); and FIDA Kenya, representing civil society.

Legislature

12. The table below outlines the status of implementation of the principle of gender representation in elective positions (public) in Kenya, as of January 2014:

No.	*Position*	***Total***	*Men*	*Women*
1.	Governors	**47**	47	0
2.	Deputy governors	**47**	38	9
National Assembly				
3.	Women Representatives to the National Assembly	**47**		47
4.	Elected Members	**290**	274	16
5.	Nominated Members	**12**	8	4
Senate				
6.	Elected Members	**47**	47	0
7.	Nominated Members	**20**	2	18
County Assemblies				
8.	Elected Members	**1,450**	1,362	88
9.	Nominated Members	**778**	0	632
10.	County Assembly Speakers	**47**	44	3

The Executive

13. Article 232(1) of the Constitution accords adequate and equal opportunities for both men and women in the appointment, training and advancement at all levels of public service. These provisions have seen a considerable number of women employed in the civil services as well as in the various constitutional commissions. After the 2013 general elections, the Government established 18 Ministries. Six women were appointed to the Cabinet. These appointments were significant because, for the first time, women Cabinet Secretaries were appointed to key cabinet portfolio that are fundamental in guiding the

economic and security direction of the nation and the nation's relations with external partners.

14. The National Police Service Act 2011 lays down the composition, functions, and powers of the National Police Service. The Act is gender-responsive and, upholds the principle that not more than two-thirds of the appointments shall be of the same gender. Currently, one of the Deputy Inspector Generals is a woman. The appointment of women to these key positions is likely to impact societal attitudes about women's leadership.

15. The table below depicts the number of male as compared to female State officers in public offices:

No	*Position*	***Total***	*Men*	*Women*
1.	Cabinet Secretaries	**18**	12	6
2.	Principal Secretaries	**26**	19	7
3.	Chairpersons of Independent Offices	**2**	1	1
4.	Chairpersons of Constitutional Commissions	**12**	7	5

The Judiciary

16. During the process of appointing judicial officers (Magistrates and Judges), the Judiciary, through the Judicial Service Commission, is guided by the principles of competitiveness, transparency and promotion of gender equality. So far, 42 women have been competitively appointed to the bench. The number of women judges is set to increase in view of the fact that the Judicature Act has been amended to increase the number of Court of Appeal judges from 14 to 30 and the High Court judges from 70 to 150.

17. The table below compares the number of male and female judges in Kenya as of June 2014:

Court	***Total***	*No. of women Judges*	*No. of male judges*
Supreme Court of Kenya	**7**	2	5
Court of Appeal	**26**	8	18
High Court	**82**	36	57

Private sector

18. Section 27 of the Constitution prohibits any form of discrimination against any person and acknowledges that both men and women have the right to equal treatment, including the right to equal opportunity in political, economic, cultural and social spheres. The National Gender and Constitutional Commission is undertaking a comprehensive survey on the implementation of the Constitutional "2/3 gender rule" in the private sector. Further information will be included in the next periodic report under the Covenant.

RECOMMENDATIONS, PARA. 13: The State party should, as a matter of urgency, pursue all cases of post 2007 election violence to ensure that all allegations of human rights violations are thoroughly investigated and that the perpetrators are brought to justice, and that victims are adequately compensated. In this regard, the State party should ensure that the recommendations of the Commission of Inquiry into the Post-Election Violence (Waki Inquiry) are duly implemented.

19. On 9th February 2012, the Director of Public Prosecutions established a Multi-Agency Taskforce to undertake a countrywide audit of all local post-election violence (PEV) cases under investigation and pending before the court, with a view to recommending ways and means of ensuring their fair and speedy determination. A number of cases have already been prosecuted and convictions have been passed by Kenyan courts on various offences, including rape. The following is data on post-election violence cases:

Status of post-election violence cases

No. of cases of PEV reported	8,869
Case files opened	6,443
Cases in court	1201
Acquitted	274
Convicted	191
Withdrawn	125
Pending investigation	61

PEV sexual/gender-based violence cases

Reported to Police	369
Taken to court	163
Concluded	122
Convictions	54
Acquittals	18
Withdrawals	50
Pending before court	16
Pending arrest of known accused	25
Closed	66
Pending investigation	140

20. The paragraphs below outline the status of implementation of the recommendations of the Commission of Inquiry into the Post-Election Violence (the Waki Inquiry).

21. **Recommendation: The Government of Kenya should enact and implement a clear policy on refugees and internally displaced persons.** Kenya has developed a new policy and legal framework to deal with issues of internally displaced persons. Among other things, the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act (No. 56 of 2012) establishes a rights-based response to internal displacement. The National Policy on the Prevention of Internal Displacement, Protection and Assistance to Internally Displaced Persons (IDPs) in Kenya offers further protection. The Refugee bill 2013 and policy are under review.

22. **Recommendation: A special tribunal, to be known as the Special Tribunal for Kenya be set up as a court that will sit within the territorial boundaries of the Republic of Kenya and seek accountability against persons bearing the greatest responsibility for crimes, particularly crimes against humanity, relating to the 2007 General Elections in Kenya. A statute (to be known as "the Statute for the Special Tribunal") shall be enacted into law and come into force within a further 45 days after the signing of the agreement.** The Special Tribunal for Kenya Bill and the Constitution of Kenya (Amendment) Bill were tabled in Parliament in 2009 to establish a

national legal framework to prosecute persons responsible for the post-election violence that occurred in Kenya in 2007/2008. Unfortunately, the two Bills were not accepted by the Kenyan Parliament.

23. However, plans are at an advanced stage to set up an International Crimes Division (ICD) of the High Court. This is meant to serve dual purposes. It will, however, not handle continuing post-election violence cases at The Hague, but will try those suspects who have not yet been taken to The Hague. The ICD will also prosecute transnational crimes, poaching, terrorism and ICT crimes. The International Criminal Division will be created on the basis of Chapter 8 of the International Crimes Act of 2008 that domesticated the Rome Statute, and will adopt similar procedures as the International Criminal Court

24. The Special Division of High Court will not only prosecute committed crimes but have a procedure that will attempt to prevent future crimes. Besides that, the division will embrace reconciliation element as a way to dissolve disputes and move the country forward.

25. **Recommendation: The International Crimes Bill 2008 should be fast-tracked for enactment by Parliament to facilitate investigation and prosecution of crimes against humanity. The Witness Protection Act 2008 be fully utilized in the protection of all witnesses who will need such protection in the course of investigation, prosecution and adjudication of PEV cases. The Freedom of Information Bill be enacted forthwith to enable state and non-state actors to have full access to information which may lead to arrest, detention and prosecution of persons responsible for gross violations.**

- The International Crimes Act No. 16 of 2008 became operational in January 2009. It sets out the domestic legal system for the punishment of certain international crimes, namely genocide, crimes against humanity and war crimes, and to enable Kenya to co-operate with the International Criminal Court established by the Rome Statute in the performance of its functions;
- The Witness Protection Act No. 16 of 2006 was amended *vide* the Witness Protection (Amendment) Act No. 2 of 2010 to de-link the Agency from the State Law Office and accord it more operational autonomy, covert capability, confidentiality and accountability;
- The Ministry of Information, Communication and Technology is in the final stages of preparing the Access to Information Bill, which, once enacted, will promote transparency and accountability in the management of public affairs and help Kenyans in actively participating in the decision-making process.

26. **Recommendation: A comprehensive reform of the Kenya Police Service and Administration Police should be undertaken.**

- The National Taskforce on Police Reforms was established by the President in May 2009 to make recommendations on the reform of the Police Service in Kenya. Many of the recommendations of the taskforce have been implemented and the Police Service is now more efficient, effective and accountable;
- The Constitution of Kenya, 2010, also provided additional momentum for reforms in the Police as it introduced new structures to ensure the provision of better services. Some of these structures include: the National Police Service Commission; the National Police Service; and the Independent Policing Oversight Authority;
- The National Police Service Code set standards for professional police conduct. All police officers are currently undergoing a vetting process against set criteria on professionalism, integrity, track record of performance and psychological fitness;

- The training curriculum for police officers has been reviewed and now includes human rights as part of the curriculum.

27. **Recommendation: An "Independent Police Conduct Authority" should be established with the legislative powers and authority to investigate police conduct and provide civilian oversight.**

- The Independent Police Oversight Authority established by the Independent Police Oversight Authority Act No. 35 of 2011 provides much needed accountability and monitoring functions over the Police Service. The Authority is authorized to inspect police premises, including detention facilities under the control of the National Police Service. It is also mandated to investigate any death or serious injury occurring or suspected of having occurred as a result of police action. Where appropriate, the Authority provides relevant information to enable a victim of unlawful police conduct, to institute and conduct civil proceedings for compensation in respect of injuries, damages and loss of income. The Authority plays a major role in restoring public confidence in the police.

28. **Recommendation: The Administration Police should be integrated into the Kenya Police Service to create a single police entity.**

- This recommendation has been implemented fully. In line with article 243(2) of the Constitution and the National Police Service Act, the National Police Service integrates the Kenya Police Service and the Administration Police under the Command of the Inspector General. Two Deputy Inspector-Generals are in charge of the Kenya Police Service and Administration Police Service, respectively.

29. **Recommendation: Establish Gender-based Violence Centres as departments in every public hospital with their own staff, facilities, and budget. Citizens should be informed about them in awareness campaigns; proposed the creation of gender unit/sections within every police station where victims of sexual violence can be treated with sensitivity and where their cases will be properly recorded and investigated.**

- Gender Based Violence Recovery Centres have been established in all major hospitals in Kenya to provide medical and psychosocial support to victims of gender based violence. The Office of the Director of Public Prosecution and the Task force on Implementation of the Sexual Offences Act conducted countrywide public forums to sensitize the general public on sexual offences and gender based violence;

- The Government through the then Ministry of Gender, Children and Social Development conducted public awareness on, and facilitated community dialogue on the Female Genital Mutilation Act 2011 and the dangers of female genital mutilation (FGM) in the four districts where the practice is rampant. In partnership with the faith based organizations, the Government has continued to conduct alternative rites of passage for girls in place of FGM;

- A Sexual Offences, Gender Violence and Victim's Rights Section is established in the Office of the Director of Public Prosecutor to conduct trainings and sensitization of investigators, police prosecutors and judicial officers on Sexual and Gender based violence cases throughout the country with the objective of enhancing their capacity to respond effectively to these crimes. The Section also conducts specialized training on forensic investigations, crime scene management, collection, preservation and presentation of evidence. A Prosecutor's Manual on Sexual Offences has been developed and is being used to train investigators and Police Officers on the investigation and prosecutions of sexual offences;

- All police stations now have gender desks to handle sensitive cases; and

- The training curriculum for police officers has been reviewed and incorporates training on human rights including the prohibition of torture and ill treatment. The curriculum was engendered through the concerted efforts of government and United Nations women.

30. **Recommendation: Establish under Kenyan Law the Office of Special Rapporteur on sexual violence. The responsibility of the rapporteur will be to highlight, on a continuous basis, the fact that sexual violence is a serious crime and needs an equally serious response on the part of law enforcement authorities. The rapporteur should have an appropriate staff to assist in the discharge of the functions of the office. The rapporteur should be required and empowered to work with existing government institutions that address sexual violence, including the courts, the police, and the National Commission on Gender. The rapporteur should be required to present, on an annual basis, a report to the National Assembly, outlining a view on how, during the year, cases of sexual violence were handled.**

- This recommendation has been implemented, though not in the terms of the Committee. Kenya has, since the Constitution of Kenya in 2010, set up a lot of Constitutional Commissions and independent offices. The National Commission on Gender and Equality is one such Commission with a wide mandate empowered to work with other institutions to effectively discharge its mandate.

31. The Office of the DPP, a Constitutional office, has operationalized a Sexual Offences, Gender Violence and Victim's Rights Section and appointed Special Prosecutors (advocates with expertise) to prosecute selected complicated Sexual and Gender Based Violence cases. It has been carrying out the following key initiatives:

- Training and sensitization of investigators, police prosecutors and judicial officers on Sexual and Gender based violence cases throughout the country aiming at enhancing capacity of law enforcement officers on the area and expectations;
- Specialized training on forensic investigations, crime scene management, collection, preservation and presentation of evidence;
- Development of regulations for effective implementation of the Sexual Offences Act;
- Promotion and enhancement of Inter-agency Cooperation and Collaboration Mechanisms in the fight against Sexual and Gender-based Violence, with partners, including development partners, and civil society organizations;
- Participated in several countrywide public forums in collaboration with the Taskforce on Implementation of the Sexual Offences Act to sensitize the general public on sexual offences and gender-based violence;
- Preparation of the Chief Justice Rules of Practice and Procedure known as the Sexual Offences Rules of Court 2011;
- Developed the Prosecution Guidelines on Sexual Offences and Gender Based Violence; and
- Embarked on the development of a Prosecution Victim Rights Charter.

32. Kenya has also enacted the Prohibition of Female Genital Mutilation Act No. 32 of 2011 which establishes the Anti-Female Genital Mutilation Board whose functions include to:

- Design, supervise and co-ordinate public awareness programmes against the practice of FGM;

- Generally advise the Government on matters relating to FGM and the implementation of this Act;
- Design and formulate a policy on the planning, financing and coordinating of all activities relating to FGM;
- Provide technical and other support to institutions, agencies and other bodies engaged in the programmes aimed at eradication of FGM;
- Design programmes aimed at eradication of FGM;
- Facilitate resource mobilization for the programmes and activities aimed at eradicating FGM; and
- Perform such other functions as may be assigned by any written law.

RECOMMENDATIONS, PARA. 16: The State party should take urgent measures to address overcrowding in detention centres and prisons, including through increased resort to alter.:ative forms of punishment such as parole and community service. The State party should also ensure that allegations of torture and ill-treatment are effectively investigated and that alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that the victims are adequately compensated. In this connection, the State party should ensure that law enforcement personnel continue to receive training on torture and ill-treatment by integrating the Istanbul Protocol of 1999 (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) in all training programmes for law enforcement officials. The State party should ensure that the Prevention of To1ture bill includes a definition of torture that is in line with article 1 of the Convention against torture and other cruel, inhuman or degrading treatment or punishment.

33. Decongestion of prisons and other detention centres: The rights of persons detained, held in custody or imprisoned are now guaranteed under the Constitution of Kenya. To protect these rights the Persons Deprived of Liberty Bill has been developed and should be enacted into law by August 2014. The Bill provides for the humane treatment of persons detained, held in custody or imprisoned and gives effect to the provisions of international human rights instruments and rules on such persons. The obligations of law enforcement officers and private persons in authority in relation to persons deprived of liberty are clearly set out in the Bill.

34. Strict observance of Constitutional provisions on the rights of an arrested person has played a major role in facilitating the reduction of overcrowding in detention centres and prisons in Kenya. Article 49(f)(i) provides that an arrested person must be brought before a court as soon as reasonably possible, but not later than twenty-four hours after being arrested. At the first court appearance, the person must be charged or informed of the reason for the continuing detention, or to be released. The strict adherence to these provisions by the courts has played a major role in reducing the number of persons detained in police custody after being arrested.

35. Article 49(2) of the Constitution provides that no custodial sentence should be meted to petty offences which carry a punishment of a fine only or imprisonment of less than six months. The courts have been implementing this provision diligently and thus contributing heavily not only to the reduction of overcrowding in prisons and other detention facilities but also in ensuring that petty offenders are rehabilitated in their Community. Article 49(h) makes all offences bailable unless there are compelling reasons not to be released. This is a huge departure from the old constitution where bail was not granted to persons accused of murder. In *Republic vs Danson Mgunya & Another*, Mombasa High Court Criminal Case

No. 26 of 2008, the court invoked the provision to grant bail to the accused who had been in remand since 2008.

36. The increased use of Community Service Orders, too, as provided by the Community Service Orders Act has contributed significantly to a reduction of congestion in prisons. The Magistrates' Courts identify petty offenders facing sentences of 3 years and below, who are then placed on community service. For those already imprisoned, the Probation Department identifies for community services, petty offenders sentenced for 3 years and below, and those with clean records and residual sentences of 3 years. It only covers misdemeanors and not serious offences. A High Court judge routinely visits prisons to hear grievances of prisoners, and examine the conditions in prisons.

37. The Constitution of Kenya categorically stipulates that freedom from torture and cruel, inhuman or degrading treatment or punishment is a right that cannot be limited. Over the years various law enforcement officers have been investigated and tried for torture related cases.

Statistical summary of cases related to torture and ill-treatment involving law enforcement officials, 2006–2011

Item	*Category*	*No. of cases*
1.	Cases reported to police stations	35
2.	Cases filed in court	34
3.	Cases finalized by court	6
4.	Cases pending before court	28
5.	Cases pending further investigation of both known and unknown suspects	1

38. The National Police Service Act 2011 enhances the accountability regime within the police service by setting up an internal oversight system wherein detainees in police custody can lodge complaints against torture and ill-treatment. The Internal Affairs Unit must investigate all complaints. The Unit may recommend disciplinary actions including the interdiction and suspension of an officer. For further transparency the Unit is located in separate offices from the rest of the Service. A senior investigating officer has been assigned in every county who is responsible for police internal affairs in that county.

39. The Independent Policing Oversight Authority (IPOA) was established in 2012. The Authority provides civilian oversight of the National Police Service, and receives and investigates complaints into a range of police abuse and misconduct. The main objectives of the Authority are to hold the Police accountable to the public in the performance of their functions; give effect to the provision of Article 244 of the Constitution that the Police shall strive for professionalism and discipline and shall promote and practice transparency and accountability; and ensure independent oversight of the handling of complaints by the Service. The Authority may at any time intervene and take over the investigations already before the Internal Affairs Unit when they have reason to believe the investigations are inordinately delayed or manifestly unreasonable.

40. The National Police Service Act 2011 further criminalizes torture and other cruel, inhuman and degrading treatment or punishment committed by the police. A police officer who commits acts of torture is liable on conviction to imprisonment for term not exceeding twenty five years. While those found guilty of subjecting a person to cruel, inhuman or degrading treatment faces imprisonment for a term not exceeding fifteen years. The National Police Service Commission is currently in the process of vetting police officers for their suitability to continue service in the new National Police Service.

41. Prison Rules under the Prisons Act, Chapter 90 provide that prison officers who commit offences are subject to internal disciplinary process. Some of these offences are:

- Using personal violence towards any prisoner;
- Using personal violence towards another prison officer; and
- Any other conduct to the prejudice of good order or discipline or security of a prisoner.

42. Specific orders for legal redress for torture are available through a Constitutional reference. One of the main objectives of reforms to Kenya's justice system is to increase the availability of legal services to all citizens, as the Government recognizes that access to legal services and access to and delivery of justice are "insurance" against human rights abuses, including torture.

43. A number of victims of torture have sought and have been awarded compensation by the courts in Kenya. In a judgment delivered on 8 of April 2010, the High Court presiding over a Constitutional petition filed by a victim of torture 16 years after the ordeal in *Wachira Waheire vs Attorney General* (Nairobi High Court Miscellaneous Civil Case No. 1184 of 2003), awarded the applicant general damages of US$ 2,906.

44. In a judgment delivered on 21 of July 2010, *Harun Thungu Wakaba vs Attorney General* (Nairobi High Court Miscellaneous Application No. 1411 of 2004), the High Court presiding over a consolidated Constitutional claim by 21 victims, who were tortured at Nyayo torture chambers, awarded the petitioners general damages totaling almost US$ 465,116.

45. The High Court awarded the petitioner in *James Omwega Achira vs Attorney General High Court*, petition 242 of 2009, US$ 2,906 in compensation for arrest and incarceration at the infamous Nyayo House torture chambers.

46. The content of the Istanbul Protocol which provides procedural guidelines on investigation for torture has been included in the police training curriculum.

47. "Torture" is defined in the Prevention of Torture Bill 2014 in full conformity with Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Bill provides a legislative framework for the prevention, prohibition and punishment of acts of torture and other cruel, inhumane or degrading treatment or punishment and rehabilitation of victims of torture. The Bill prescribes the penalty for the commission of torture as imprisonment for a term not exceeding twenty five years. In a case where the act of torture results in death, the penalty is life imprisonment.

48. The Bill further defines "Cruel, inhuman and degrading treatment or punishment" includes a deliberate and aggravated treatment or punishment not amounting to torture, inflicted by a person in authority or the agent of the person in authority against a person under his custody, causing suffering, gross humiliation or debasement to the person;

49. Other offences related to torture and cruel, inhuman or degrading treatment or punishment proposed in the Bill include the offences of aiding and abetting, knowingly using information obtained by or through torture and the publication of information relating to a witness declared by the court to be vulnerable.

50. The Bill is currently undergoing stakeholders' review, after which it will be placed before Cabinet for approval.